

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-348

July 6, 2004

MAINE PUBLIC UTILITIES COMMISSION
Investigation into the Conservation Fund
Assessments of the Consumer-Owned
Transmission and Distribution Utilities

ORDER APPROVING
PARTIAL STIPULATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

We approve a Partial Stipulation, filed in this investigation that recommends that the Commission set the conservation assessments for Fox Island Electric Cooperative, Inc. (FIEC) and Swans Island Electric Cooperative, Inc. (SIEC) at 0.6 mils/kWh subject to one condition. Our condition requires a modification to the Partial Stipulation, so that FIEC and SIEC will be assessed at 0.6 mils/kWh or the statutory minimum under the Conservation Act (35-A M.R.S.A. § 3211-A(4)(C), whichever is higher. FIEC and SIEC, however, will not be subject to the phased-in increase to the statutory maximum assessment as called for in our *Order on Conservation Program Funding*, Docket No. 2002-162 (April 4, 2003) (hereinafter the April 4 Order).

II. BACKGROUND

We opened this investigation to give the consumer-owned transmission and distribution utilities (COUs) another opportunity to demonstrate facts or present arguments that justify different conservation assessments for their service territories. All COUs were made parties to the investigation. In addition, the Examiner granted petitions to intervene on behalf of Central Maine Power Company (CMP), the Office of the Public Advocate (OPA), Madison Paper Industries (MPI) and Domtar Industries, Inc. (Domtar).

Significant efforts were devoted to an informal settlement process. Although a comprehensive settlement was not reached, many of the parties reached a partial settlement, concerning the conservation assessment for the two "island" COUs, Fox Island Electric Cooperative, Inc. (FIEC) and Swans Island Electric Cooperative (SIEC). This Partial Stipulation was filed with the Commission on June 18, 2004. Signature pages have been received for the OPA, SIEC, FIEC, Madison Electric Works and Domtar. None of the non-signing parties oppose it. The terms of the stipulation provide for FIEC and SIEC to be assessed at 0.6 mils/kWh and to remain at that assessment rather than be subject to the step increases provided for in the April 4 Order.

In our April 4 Order (at p. 7), we noted that FIEC and SIEC already have rates higher than the other T&D utilities and suggested that such high rates may justify lower

assessments for those service territories. The stipulating parties have pursued our suggestion and now decide that the island cooperatives' high rates justify a lower conservation assessment. The parties agreed that for the island cooperatives, 0.6 mils/kWh is the proper discount, compared to the fully phased-in 1.5 mils/kWh rate for the other T&D utilities.

III. DECISION

To accept a stipulation the Commission must find that:

1. the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;
2. the process that led to the stipulation was fair to all parties; and
3. the stipulation results is reasonable and is not contrary to legislative mandates.

See *Central Maine Power Company, Proposed Increase in Rates*, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (Jan. 10, 1995), and *Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (June 26, 1996). We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. See *Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No. 96-678, Order Approving Stipulation (April 28, 1997).

All parties either join or do not oppose the Partial Stipulation. The parties to this investigation represent a broad spectrum of interests and we are satisfied that there has been no disenfranchisement, nor any appearance of disenfranchisement here.

The Partial Stipulation was reached through a series of settlement conferences noticed to all parties and conducted by our Advisory Staff. Moreover, the parties who do not join the Stipulation do not oppose it. We are thus satisfied that our second criterion has also been satisfied.

We agree that high rates for FIEC and SIEC, the T&D utilities with the highest rates in the State, justify different conservation assessments. The parties recommend a discounted assessment of 0.6 mils/kWh. At 40% of the maximum rate, 0.6 mils/kWh is a significant portion of the maximum rate, but still offers a substantial discount to alleviate the high rate problem.

We agree generally with the parties that an assessment for FIEC and SIEC of 0.6 mils/kWh represents a reasonable compromise. The Conservation Act, however, requires that we impose a condition upon the result called for in the Partial Stipulation. The Act, 35-A M.R.S.A. § 3211-A(4)(C), imposes the requirement for a minimum

conservation assessment on each T&D utility of 0.5% of the total T&D revenue. It is possible that 0.6 mils/kWh will produce an assessment that is lower than the statutory minimum. In fact, currently SIEC's minimum assessment produces a mil rate of about 0.7 mils/kWh.

Accordingly, we will require the conservation assessment of FIEC and SIEC to be the higher of 0.6 mils/kWh or the 0.5% total T&D revenue. With this condition assuring compliance with the statute, we conclude that the Partial Stipulation provides a reasonable resolution to resolve the dispute about the proper assessment on the island cooperatives, and is in the public interest.

As our modification to the Stipulation involves an issue of statutory compliance, and the assessments for the island cooperatives are scheduled to change on July 1, 2004, we believe it is appropriate to order that the Partial Stipulation is approved as modified to comply with the Conservation Act. The parties to the investigation can use the reconsideration process of Chapter 110 of our Rules if they desire to change their position on the Partial Stipulation as a result of our modification to it.

Accordingly, we

O R D E R

That the Partial Stipulation, attached to and incorporated into this Order, is approved with the modification described above.

Dated at Augusta, Maine, this 6th day of July, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.